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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/788,845 | 02/27/2004 | Federico Uslenghi | 60246-339 | 6868 |

26096 7590 04/04/2007
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| EXAMINER |
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MAYEKAR, KISHOR

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| ART UNIT | PAPER NUMBER |
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1753

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 04/04/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/788,845

Applicant(s)

USLENGHI ET AL.

Examiner

Kishor Mayekar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's arguments with respect to claims 1-18 and new claims 19-23 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-3, 8-11, 19 and 20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, 10 and 11 of

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copending Application No. 10/789962. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending claims are narrower than the above claims, and claim an indoor air quality module comprising all the structures as claimed which are the recited inner and outer compartments as claimed in claims 1-3, 8 and 9. The above claims are an obvious variant of the copending claims.

As to the subject matter of claim 2, though the disclosure of the copending may not be used as prior art, however the specification can always be used as a dictionary to learn the meaning of a term in the copending claim. *In re Boylan* 157 USPQ 370. And the copending claim's component discloses in paragraph [24] as an air duct. As such the above claims is an obvious variant of the copending claim.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 4, 5 and 12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, 10 and 11 of copending Application No. 10/789962 in view of either Bowen (US 3,520,115) or LaFerriere et al. (US 6,797,042 B2), both reference cited in the last Office action. The differences between the patent claims as applied above and the instant claims are the use of a fastener to removably attaching the opposing second end of the inner compartment to the outer compartment. Bowen shows the limitation in Figs. 4 and col. 4, lines 9-13 and col. 3,

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lines 41-45 for pivotally attached a panel to a component. LaFerriere shows the same in an air purifier for pivotally attached a door to a component (col. 15, lines 53-65). The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the copending claims as shown by either Bowen or LaFerriere because this would result in removably attaching the opposing end of the inner compartment to the outer compartment while the inner compartment's first end is pivotally attached to the outer compartment and the selection of any of known equivalent means for removably attaching the opposite end would be within the level of ordinary skill in the art.

5. Claims 6 and 7 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, 10 and 11 of copending Application No. 10/789962 in view of Reisfeld et al. (US 6,716,406 B2), another reference cited in the last Office action. The differences between the copending claims as applied above and the instant claims are the limitations recited in each of the instant claims. Reisfeld shows in a modular photocatalytic air purifier in Figs. 4-5, in col. 4, lines 43-67, and col. 2, lines 57-66. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the copending claims as shown by Reisfeld because this would result in pivoting the inner

compartment between the first position and the second position and the selection of any equivalent .

6. Claim 13 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, 10 and 11 of copending Application No. 10/789962 in view of either Bowen '115 or LaFerriere '042 as applied to claim 12, and further in view of Reisfeld '406, for the same reason as applied to paragraph #5 above.

7. Claims 14-18 and 23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, 10 and 11 of copending Application No. 10/789962 in view of Reisfeld '406. The further difference between the copending claims and the above claims is the method claims. Reisfeld as applied above shows the air purifier and a method of purifying air. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the copending claims as shown by Reisfeld because of the method of operating the indoor air quality module.

8. Claims 21 and 22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5, 10 and 11 of

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copending Application No. 10/789962 in view of Reisfeld '406, and further in view of either Bowen '115 or LaFerriere '042. The further difference between the copending claims and the above claims the recited hinges. Bowen shows the limitation in Figs. 4 and col. 4, lines 9-13 and col. 3, lines 41-45 for pivotally attached a panel to a component. LaFerriere shows the same in an air purifier for pivotally attached a door to a component (col. 15, lines 53-65). The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the copending claims as shown by either Bowen or LaFerriere because this would result in pivoting the inner compartment between the first position and the second position relative to the outer compartment, and the selection of any of known equivalent structures to the pivoting would be within the level of ordinary skill in the art.

Response to Arguments

9. Applicant's arguments filed 4 January 2007 have been fully considered but they are not persuasive because of the new ground of rejections as set forth in the paragraphs above.

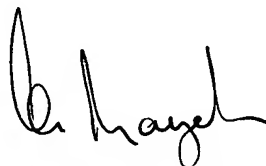
Conclusion

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kishor Mayekar whose telephone number is (571) 272-1339. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kishor Mayekar
Primary Examiner
Art Unit 1753